

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: UNITED CITIES GAS COMPANY, A DIVISION OF ATMOS ENERGY CORPORATION	DOCKET NO. WRU-01-48-222 (PGA-01-69)
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ORDER DENYING REQUEST FOR WAIVER

(Issued October 31, 2001)

On October 1, 2001, United Cities Gas Company, a division of Atmos Energy Corporation (United Cities), filed with the Utilities Board (Board) its annual purchased gas adjustment (PGA) reconciliation. The filing was identified as Docket No. PGA-01-69. On October 8, 2001, United Cities filed a request for waiver of 199 IAC 19.10(7)"b"(1) that specifies the handling of over and under-collections resulting from the annual reconciliation. The annual reconciliation filing shows an over-collection in excess of 3 percent for the period of September 1, 2000, to August 31, 2001, and the rule requires that the over-collection be refunded by check or bill credit. United Cities is requesting that it be allowed to return the over-collection through the PGA factor rather than by bill credit or check. The waiver request has been identified as Docket No. WRU-01-48-222.

In the waiver request, United Cities indicates that the over-collection is approximately 4 percent of annual costs. United Cities states that the over-collection is mainly the result of the inclusion of storage factors (factors Z and Rz) in the

monthly PGAs, which was ordered by the Board in March 2001. United Cities contends that the inclusion of the storage factors in the PGAs after March prevented the company from bringing the over-collection below 3 percent. United Cities then states that the cost of returning the over-collection would be greater than the amount the over-collection exceeds 3 percent.

On October 10, 2001, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection and response to the waiver request. Consumer Advocate states that it opposes the waiver and that regardless of the cause of the over-collection, the rule requiring bill credits or checks for amounts over 3 percent should be followed. Consumer Advocates points out that United Cities did not provide any specific data to support the contention that the cost would exceed the amount over 3 percent and customers are still recovering from the high cost of gas from last winter and should receive the benefit of the rule.

The Board has been reviewing the calculation of the monthly PGAs filed by United Cities since it found a large over-collection from January 2001. The Board in an order issued February 2, 2001, authorized United Cities to return on a one-time basis the January over-collection. Then on March 28, 2001, the Board ordered United Cities to begin complying with 199 IAC 19.10 by including the storage factors in the monthly PGA calculation. Once the Board has completed its review of the annual reconciliation for the period September 1, 2000, through August 31, 2001, it will be able to close the dockets for the monthly PGAs from March through August.

Paragraph 199 IAC 19.10(7)"b"(1) provides for a direct return to customers of over-collections that exceed 3 percent. Over-collections of 3 percent or less may be passed back to customers through the monthly PGAs for a 10-month period beginning November 1. The rule provides a benefit in favor of customers in the PGA process since United Cities receives the benefit of a pass through of the cost of gas. This balance is especially important where the high gas costs had such a dramatic impact on customer bills last winter. The Board finds that the costs from returning the over-collection through a bill credit are not significant enough to deny customers the benefit of the bill credit. This is especially true in consideration of the beneficial effect the bill credit will have on customers as we go into the winter heating season.

The Board also finds that the request does not meet the requirements of the Board's waiver rule, 199 IAC 1.3. United Cities has not shown by clear and convincing evidence that it will suffer undue hardship from the application of the rule and the Board finds that consideration of all relevant factors does not support a granting of the request.

United Cities will be required to file a refund plan that shows the amount of the refund, with interest, and a refund report after the refund is made.

IT IS THEREFORE ORDERED:

1. The request for the waiver of 199 IAC 19.10(7)"b"(1) filed by United Cities Gas Company, a division of Atmos Energy Corporation, on October 1, 2001, is denied.

2. United Cities Gas Company, a division of Atmos Energy Corporation, shall file a refund plan showing the return to customers of the over-collection from the annual reconciliation filed October 1, 2001.

3. United Cities Gas Company, a division of Atmos Energy Corporation, shall file a refund report after the completion of the refund.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 31st day of October, 2001.